

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #5	CCRB Case #: 201809228	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/01/2018 11:00 PM, Thursday, 11/01/2018 11:28 PM	Location of Incident: Front of § 87(2)(b) PSA 7 stationhouse	Precinct: 44	18 Mo. SOL 5/1/2020	EO SOL 12/16/2020	
Date/Time CV Reported Fri, 11/02/2018 5:22 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 11/02/2018 5:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Tejada	06150	960018	PSA 7
2. Officers			Unknown
3. An officer			Unknown
4. POM John Migliaccio	25698	964169	PSA 7
5. POM Fray Severinojimenez	06137	959224	PSA 7
6. POM Christopher Boyce	05100	960272	PSA 7
7. POM Brian Greaige	13811	960616	PSA 7
8. POM Manolin Molina	27653	936051	PSA 7
9. LT Eric Dym	00000	933762	PSA 7
10. POM Joseph Deramo	20280	958492	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Fitz Edouard	04802	956616	042 PCT
2. POM Andrew Sokolohorsky	07254	963763	044 PCT
3. POM Ryan Brady	03653	964402	044 PCT
4. SGT Victor Velez	4643	943924	034 PCT
5. POM Kevin Leonard	06998	963608	044 PCT
6. POM Connor Walsh	10280	957266	044 PCT
7. SGT Alexander Velasquez	4729	942659	042 PCT
8. POM Michael Breeding	14616	955768	042 PCT
9. POF Jasmine Nunezramos	10742	964684	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
10. POM Eamonn Noonan	06590	958993	042 PCT
11. POM Michael Sambrato	06414	961232	044 PCT
12. POM Joseph Martinez	10535	947221	PSA 7
13. POM Matthew Camerino	20269	958361	042 PCT
14. POM Vladimir Julien	17604	958736	044 PCT
15. POF Jandel Scarlett	19220	962783	042 PCT
16. POM Juan Peralta	21062	959060	042 PCT
17. POM Fatmir Gjonbalaj	31476	952785	PSA 7
18. POM Felix Baez	04759	953654	PSA 7
19. POF Lauren Amin	11367	961615	PSA 7
20. POM Phillip Pena	11192	956156	WARRSEC
21. POM Jorge Bencosme	20173	963872	042 PCT
22. POM Melvin Ventura	03009	957254	PSA 7
23. CPT Jerome Bacchi	00000	923531	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: In front of § 87(2)(b) in the Bronx, officers hit § 87(2)(b) against a vehicle.	
B. Officers	Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	
C.LT Eric Dym	Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)	
D.POM Fray Severinojimenez	Force: In front of § 87(2)(b) in the Bronx, Police Officer Fray Severino-Jimenez used physical force against § 87(2)(b)	
E.LT Eric Dym	Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)	
F. An officer	Force: In front of § 87(2)(b) in the Bronx, an officer struck § 87(2)(b) with a blunt instrument.	
G. Officers	Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	
H.LT Eric Dym	Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)	
I.POM John Migliaccio	Force: In front of § 87(2)(b) in the Bronx, Police Officer John Migliaccio used a Taser against § 87(2)(b)	
J. Officers	Force: Officers used physical force against § 87(2)(b)	
K. Officers	Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to § 87(2)(b)	
L. An officer	Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	
M.POM Brian Greaiqe	Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaiqe used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
N.POM Brian Greaige	Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b).	
O.POM Brian Greaige	Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b).	
P.POM Brian Greaige	Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against individuals.	
Q. An officer	Abuse: In front of § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b).	
R. An officer	Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b).	
S. Officers	Abuse: In front of § 87(2)(b) in the Bronx, officers threatened to arrest individuals.	
T. Officers	Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to individuals.	
U.POM Joseph Deramo	Discourtesy: In front of § 87(2)(b) in the Bronx, Police Officer Joseph Deramo spoke discourteously to individuals.	
V.POM Joseph Deramo	Abuse: In front of § 87(2)(b) in the Bronx, Joseph Deramo threatened individuals with the use of force.	
W.POM Fray Severinojimenez	Abuse: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez threatened to damage § 87(2)(b) property.	
X.POM Fray Severinojimenez	Abuse: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez threatened to arrest § 87(2)(b).	
Y.POM Fray Severinojimenez	Discourtesy: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez spoke discourteously to § 87(2)(b).	
§ 87(4-b), § 87(2)(g)		
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Case Summary

On November 1, 2018, § 87(2)(b) cousin, § 87(2)(b) filed this complaint by phone with IAB on § 87(2)(b) behalf, generating original IAB log #18-42988. On November 2, 2018, § 87(2)(b) § 87(2)(b)'s mother, called the CCRB and filed this complaint on behalf of herself and § 87(2)(b). On November 8, 2018, the CCRB received § 87(2)(b)'s complaint from IAB under referral log #18-43605. On November 28, 2018, IAB received an § 87(2)(b) letter complaining about this incident, which generated original IAB log #18-46548. The CCRB received that complaint from IAB on December 5, 2018, under referral log #18-47212.

On November 1, 2018, at approximately 11 p.m., Lieutenant Eric Dym and Police Officers Brian Greige, Fray Severino-Jimenez, Manolin Molina, and Jose Tejada, all of whom were PSA 7 Anticrime officers at the time, saw § 87(2)(b) outside of his residence at § 87(2)(b) in the Bronx. They knew that § 87(2)(b) was the subject of a probable cause I-Card regarding a recent shooting in the area, and they attempted to arrest him. Several of § 87(2)(b) family members were present, § 87(2)(b) and were returning from a liquor store. These included his fiancée § 87(2)(b) his mother § 87(2)(b) his stepfather § 87(2)(b) his biological father § 87(2)(b) his cousin § 87(2)(b) and his friend § 87(2)(b).

§ 87(2)(b) refused to be handcuffed and a struggle ensued. Officers allegedly struck § 87(2)(b) against a vehicle (**Allegation A: Force**, § 87(2)(g)). Officers allegedly took § 87(2)(b) to the ground (**Allegation B: Force**, § 87(2)(g)). Lt. Dym and PO Severino-Jimenez both punched § 87(2)(b) at least once while they struggled with him standing up (**Allegation C: Force**, § 87(2)(g); **Allegation D: Force**, § 87(2)(g)). § 87(2)(b) fell to the ground atop PO Molina, and Lt. Dym and PO Severino-Jimenez also went down to the ground while struggling with him. Lt. Dym punched § 87(2)(b) numerous times about the head and face (**Allegation E: Force**, § 87(2)(g)). At some point, an officer allegedly struck § 87(2)(b) with a blunt object (**Allegation F: Force**, § 87(2)(g)). Officers allegedly kicked and stomped on § 87(2)(b) numerous times (**Allegation G: Force**, § 87(2)(g)).

Numerous officers responded to a radio request for emergency assistance, including Police Officer John Migliaccio of PSA 7. § 87(2)(b) bit PO Severino-Jimenez's calf and PO Migliaccio's finger as the struggle continued. Lt. Dym struck § 87(2)(b) in the face with his knee (**Allegation H: Force**, § 87(2)(g)). PO Migliaccio used a Taser against § 87(2)(b) (**Allegation I: Force**, § 87(2)(g)). At some point during the struggle, unidentified uniformed officers allegedly also punched § 87(2)(b) (**Allegation J: Force**, § 87(2)(g)). During the struggle to handcuff § 87(2)(b) officers said, "Stop fucking resisting," and, "Let me see your fucking hands" (**Allegation K: Discourtesy**, § 87(2)(g)). An officer said, "Motherfucker" (**Allegation L: Discourtesy**, § 87(2)(g)).

A large crowd gathered at the scene, and various individuals repeatedly approached the physical struggle between officers and § 87(2)(b). PO Greige pushed § 87(2)(b) and other civilians multiple times (**Allegations M-P: Force**, § 87(2)(g)). An officer allegedly told § 87(2)(b) "I'll lock your ass up" (**Allegation Q: Abuse of Authority**, § 87(2)(g); **Allegation R: Discourtesy**, § 87(2)(g)). Officers allegedly threatened to arrest individuals if they did not "move the fuck back" (**Allegation S: Abuse of Authority**, § 87(2)(g); **Allegation T: Discourtesy**, § 87(2)(g)).

Police Officer Jason Deramo, then assigned to the 44th Precinct, was one of the officers who eventually arrived on scene. PO Deramo told individuals, “You’re gonna get fucking tased, don’t do that shit,” and, “Shut the fuck up and go home—like, do something productive with your lives. God damn, you fucking useless people” (**Allegation U: Discourtesy**, § 87(2)(g) [REDACTED]; **Allegation V: Abuse of Authority**, § 87(2)(g) [REDACTED]). PO Deramo also said, “I don’t give a shit,” and called an unidentified civilian a “fucking liar” (**Allegation U**).

§ 87(2)(b) [REDACTED] was arrested for § 87(2)(b) [REDACTED] (BR49-50). At the stationhouse, he was also arrested for § 87(2)(b) [REDACTED] (BR51, BR56). § 87(2)(b) [REDACTED] has been arrested under multiple names and was arrested under the name § 87(2)(b) [REDACTED] during this incident.

At approximately 11:28 p.m. that same night, § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] arrived at the PSA 7 stationhouse. § 87(2)(b) [REDACTED] began taking photographs with her cellphone, and PO Severino-Jimenez allegedly threatened to break her phone and threatened to arrest her (**Allegations W-X: Abuse of Authority**, § 87(2)(g) [REDACTED]). PO Severino-Jimenez also allegedly used profanity toward § 87(2)(b) [REDACTED] (**Allegation Y: Discourtesy**, § 87(2)(g) [REDACTED]).

§ 87(4-b), § 87(2)(g) [REDACTED]

The investigation obtained multiple versions of the same bystander cellphone footage, which was apparently posted to Instagram (BR03-04 & BR59, summarized at BR47). The investigation also obtained additional bystander cellphone footage, but it was of extremely poor quality (BR08, summarized at BR48). The investigation obtained 35 BWC clips, including from Lt. Dym, PO Severino-Jimenez, PO Molina, PO Greaike, and PO Deramo (BR09-43, summarized at BR62-88). The investigation also obtained surveillance footage from the PSA 7 stationhouse (BR89-90, summarized at BR91).

On May 10, 2019, this case was reassigned from Inv. Andrew Ridge to SI Olga Golub, § 87(2)(b) [REDACTED]. The case was reassigned back to Inv. Ridge on August 5, 2019. The case was reassigned to Inv. Conor O’Shea on August 26, 2020, after Inv. Ridge’s departure from the agency.

§ 87(2)(b) [REDACTED] remained incarcerated for a year after this incident, and his criminal attorney forbade him from providing a statement to the CCRB until the conclusion of his related criminal cases. In addition, § 87(2)(b) [REDACTED] initially stated a desire to provide a statement during multiple phone calls with the investigation, but he declined to do so without permission from his civil attorney and then stopped responding to contact attempts. As a result, the investigation worked to obtain all available evidence and to secure as many civilian statements as possible prior to temporarily closing this case pending litigation on October 29, 2019. In May 2020, the investigation confirmed that § 87(2)(b) [REDACTED] criminal cases had been resolved. At this point, the investigation made multiple unsuccessful attempts to locate § 87(2)(b) [REDACTED] including by calling § 87(2)(b) [REDACTED]. Having already obtained multiple sworn statements from other civilians, the CCRB reopened this case on August 25, 2020. The investigation made additional unsuccessful attempts to contact § 87(2)(b) [REDACTED] directly and through § 87(2)(b) [REDACTED] until December 2020. The investigation

did successfully reach § 87(2)(b) by phone again—he refused to provide a statement as his civil lawsuit remained pending.

The closure of this case was delayed by the COVID-19 global pandemic, significant delays in obtaining the case file from the NYPD’s concurrent investigation into this incident, further delays in obtaining statements and evidence from civilians who were represented by legal counsel, and the significant period during which time the investigation was closed pending litigation. Delays with remotely interviewing officers as well as issues obtaining all of the relevant BWC footage from the NYPD Legal Bureau further delayed this investigation.

PO Severino-Jimenez resigned from the NYPD on January 5, 2019. PO Noonan left the NYPD on June 3, 2020. PO Deramo retired from the NYPD on March 21, 2021. Sgt. Vasquez has since been reassigned to the Criminal Intelligence Section. Sgt. Velez has since been promoted to the rank of lieutenant. Lt. Dym has since been promoted to the rank of lieutenant special assignment.

Findings and Recommendations

- **Allegation (C) Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)**
- **Allegation (D) Force: In front of § 87(2)(b) in the Bronx, Police Officer Fray Severino-Jimenez used physical force against § 87(2)(b)**

It is clear from the collected testimony and video footage that the officers approached § 87(2)(b) as he stood beside a metal gate in front of § 87(2)(b) that § 87(2)(b) resisted being handcuffed, that a chaotic physical struggle quickly ensued, and that officers ended up on the ground with § 87(2)(b). Officers struggled on the ground with § 87(2)(b) for approximately five minutes before successfully cuffing him.

As will be addressed later in this report, various civilians recounted officers striking § 87(2)(b) against a parked car before he went to the ground. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

The investigation did not obtain any video footage capturing the beginning of the officers’ interaction with § 87(2)(b). The earliest clip is from Lt. Dym’s BWC (BR12), and the officers already appear to be physically grappling with § 87(2)(b) at the gate when the clip begins. § 87(2)(b) and Lt. Dym are not visible, but PO Severino-Jimenez is clearly grappling with § 87(2)(b). PO Molina, PO Tejada, and PO Greaike initially are focused on keeping the numerous nearby civilians away, but PO Molina soon joins Lt. Dym and PO Severino-Jimenez in the struggle with § 87(2)(b). The BWC jerks around and is frequently obscured. When the audio begins at 00:30, officers and civilians are screaming indecipherably, and § 87(2)(b) and another man are within inches of the officers. By 00:40, Lt. Dym appears to start throwing punches, but the footage remains chaotic. PO Severino-Jimenez’s BWC footage (BR09) began shortly after Lt. Dym’s, as he grappled standing up with § 87(2)(b). Very little can be discerned beyond that an officer is saying, “Stop resisting,” and § 87(2)(b) is protesting, “What are you locking me up for?”

One of the bystander cellphone videos provides a clearer view of this portion of the incident (BR59). It begins shortly after Lt. Dym’s BWC footage does, and just before Lt. Dym throws the first punch captured in any of the video footage. Lt. Dym is the blond officer on the right, PO

Severino-Jimenez is the officer on the left in a baseball cap, and PO Molina is the officer in the red shirt. Lt. Dym throws four punches and PO Severino-Jimenez throws one punch before § 87(2)(b) goes to the ground on top of PO Molina. It is not clear whether any of those punches successfully contacted § 87(2)(b). It is clear from the footage that § 87(2)(b) was not successfully handcuffed before going to the ground.

The other bystander cellphone clip (BR08) also did not begin until after the physical struggle began, and it was of such poor quality that it did not aid the investigation.

The civilian witnesses § 87(2)(g)

all described officers pulling § 87(2)(b) arms behind his back at the gate. § 87(2)(b) testified that § 87(2)(b) remained still as PO Severino-Jimenez and Lt. Dym tried to cuff him, and he merely asked why he was being arrested (BR05). § 87(2)(b) recounted that § 87(2)(b) raised his hands while arguing that there was no reason to arrest him, and that he remained leaning against the gate and continued asking the officers what they were doing (BR06). § 87(2)(b) provided confusing testimony regarding § 87(2)(b) level of resistance. She initially said that he “swatted” at the officers while protesting that they were violating his rights (BR07). She later said that § 87(2)(b) was merely “shaking” his hands, but that he could not “swat” because his hands were not free, and she claimed that § 87(2)(b) offered no physical resistance to being apprehended. § 87(2)(b) (BR46) initially recounted that § 87(2)(b) moved his body around and asked what was happening, but later said that § 87(2)(b) was not moving once the officers held him against the gate. § 87(2)(b) who only provided a brief unsworn statement (BR44), recounted that § 87(2)(b) initially stepped away from the officers and said that he would not go with them. § 87(2)(b) and § 87(2)(b) both testified that the officers successfully handcuffed § 87(2)(b) while he was still standing up. § 87(2)(b) recounted that the officers had brought § 87(2)(b) arms behind his back, but he could not see if he was fully cuffed.

§ 87(2)(b) did not recount seeing any officer punch or otherwise strike § 87(2)(b) before he went to the ground. § 87(2)(b) testified that at least one officer punched § 87(2)(b) before he went to the ground, but he could not provide any further description of that use of force. § 87(2)(b) claimed that PO Severino-Jimenez and Lt. Dym began punching § 87(2)(b) in the face and ribs after cuffing him. She could not explain what led the officers to begin punching him after cuffing him and could not estimate how many times they punched him. § 87(2)(b) denied that any officer struck § 87(2)(b) before he went to the ground.

Lt. Dym was not interviewed until approximately 28 months after the date of the incident (BR92). He provided extensive testimony about his knowledge of § 87(2)(b) prior to the incident. He had never personally interacted with § 87(2)(b) but he knew him to be a Bloods gang member who sold crack and cocaine in front of his residence. Lt. Dym’s Anticrime team assisted the detective squad with generating the I-Card for § 87(2)(b) that day, based upon a shooting incident which occurred approximately one week prior. § 87(2)(b) had been captured on video as part of a “three-man team” which fired shots in the rear of § 87(2)(b). Lt. Dym could not recall if § 87(2)(b) personally fired the gun during that incident. Lt. Dym had also performed a “crime analysis” of § 87(2)(b) arrest history—he learned that § 87(2)(b) had previously been arrested for possession of a firearm, and that § 87(2)(b) had been arrested for knocking out a lieutenant by punching him in the face. Lt. Dym also added that § 87(2)(b) was suspected of “having a part” in § 87(2)(b) which led to the I-Card, though Lt. Dym refused to provide any further specific information on that topic.

Lt. Dym went to the location in order to arrest § 87(2)(b). As a result of the above information, Lt. Dym anticipated that § 87(2)(b) could be armed. Prior to approaching them, Lt. Dym did not recall seeing any indication that any member of the group with § 87(2)(b) was armed, and he did not recall seeing any bulges (or any other specific indication of a firearm) on § 87(2)(b) person at any point during the incident. However, prior to approaching § 87(2)(b) Lt. Dym also noticed § 87(2)(b) nearby. Lt. Dym testified that he had been involved in arresting § 87(2)(b) for possessing two firearms at some point in the past, and that he had seen video footage of § 87(2)(b) firing a gun and picking up shell casings in the nearby NYCHA complex. Lt. Dym therefore thought there was a “good chance” that § 87(2)(b) also was armed. He did not know anything about § 87(2)(b)’s relationship to § 87(2)(b). § 87(2)(b)’s available arrest history does not appear to contain any arrests which could be consistent with Lt. Dym’s testimony; it remains unclear whether Lt. Dym simply mistook § 87(2)(b) for someone else.

Lt. Dym recounted that he told § 87(2)(b) he was under arrest, and § 87(2)(b) immediately said, “I’m not going today.” § 87(2)(b) demeanor and body language indicated to Lt. Dym that “the fight was on,” specifically that § 87(2)(b) assumed a fighting stance, dropped his chin and jaw, and raised his shoulders. Lt. Dym reached toward § 87(2)(b) and § 87(2)(b) threw an unsuccessful punch at Lt. Dym’s face. In the ensuing struggle, § 87(2)(b) kept trying to punch officers, and Lt. Dym concluded that § 87(2)(b) intended to injure the officers. Lt. Dym felt that he was “fighting for [his] life.” Lt. Dym threw several punches at § 87(2)(b) face in order to get him down to the ground.

PO Tejada (BR93), PO Molina (BR94), and PO Greaige (BR96) provided roughly similar testimony regarding their knowledge of § 87(2)(b) criminal history. They also confirmed that § 87(2)(b) initially resisted arrest, though none recalled seeing § 87(2)(b) attempt to punch any officer before going to the ground. PO Tejada described him tensing his body and refusing to put his arms behind his back. PO Greaige recalled him being agitated and combative. PO Molina recounted that § 87(2)(b) said he was “not fucking going anywhere,” attempted to walk away, and flailed his arms when Lt. Dym and PO Severino-Jimenez grabbed him. The investigation was unable to interview PO Severino-Jimenez, as he left the NYPD only two months after the incident.

§ 87(2)(g)
[REDACTED]

Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to place a person in custody or to ensure the safety of officers or civilians. Officers must use only the reasonable force necessary to gain control or custody of a subject (BR110).

§ 87(2)(g)
[REDACTED]

- **Allegation (E) Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)**

It is undisputed that Lt. Dym punched § 87(2)(b) in the head and face multiple times after the struggle moved to the ground.

In the cellphone footage (BR59, beginning at approximately 00:03), § 87(2)(b) ends up lying on his back or side with PO Molina partially beneath him. PO Severino-Jimenez drops to his knees, while Lt. Dym kneels with his left knee but otherwise remains upright. Lt. Dym throws approximately nine punches with his right hand once § 87(2)(b) goes to the ground. At this point, he is punching down at § 87(2)(b) below him. PO Tejada approaches and appears to grab one of § 87(2)(b) arms. § 87(2)(b) turns so that he is facedown and moves his legs into a kneeling position. PO Severino-Jimenez grabs § 87(2)(b) back or hip and pushes down on him. Lt. Dym appears to throw four more punches with his right hand. No other officer visibly punches or otherwise strikes § 87(2)(b).

Lt. Dym's BWC provides an alternate view of his actions when § 87(2)(b) went to the ground (BR12, beginning at approximately 00:37). The investigation created a sub-clip isolating this portion of the footage (BR115), and also slowed that clip down to half-speed to better facilitate review of Lt. Dym's actions (BR116, clip has no audio). The footage is jerky and chaotic, but the camera moves back and forth in the same repeated motion each time Lt. Dym throws a punch. It appears that Lt. Dym is gripping the back of § 87(2)(b) head by his braids with his left hand while he punches with his right hand toward § 87(2)(b) face and head. Another officer's arm, possibly PO Molina's, appears to hold § 87(2)(b) in a headlock by wrapping around the back of his neck. At approximately 00:51, § 87(2)(b) stretches his left hand out from within the dogpile, and a set of handcuffs dangles from his wrist. PO Tejada grabs that arm and holds it immobilized. Lt. Dym then punches § 87(2)(b) about the face or head approximately 14 more times, over the course of approximately 17 seconds, before taking out his own set of handcuffs and placing them on § 87(2)(b) right wrist.

The Medical Treatment of Prisoner Report for § 87(2)(b) indicates that he had lacerations on the left side of his head and near his right eyebrow, and that he received sutures in the emergency room (BR52). A photograph of § 87(2)(b) taken by officers shortly after the arrest, shows a bandage on the left side of his head, significant swelling about his right orbital, and streaks of blood apparently coming from wounds on the right side of his face (BR54). Additional photographs show a small laceration on the left side of § 87(2)(b) forehead, at the hairline. § 87(2)(b) facial injuries are also visible in BWC footage from when he was presented at the desk inside the stationhouse shortly after the arrest (BR43, at approximately 06:28). A Department of Correction booking photograph of § 87(2)(b) from the day after the arrest also shows significant swelling about his right eye and cheekbone, such that his eye appears to be swollen shut (BR61). § 87(2)(b) provided additional photographs of § 87(2)(b) injuries, taken at an unknown date after the incident, showing his bloodshot right eye and the wound on his forehead (BR99). § 87(2)(b) recounted seeing § 87(2)(b) injuries three days after the incident, by which time his stitches had already fallen out. His right eye was initially swollen shut, and later opened to show a bloodshot eyeball. He also had swelling above and about his left eye.

As the investigation ultimately was unable to obtain signed HIPAA forms from § 87(2)(b) the investigation could not obtain any medical records documenting his injuries or the treatment he received.

As noted above, Lt. Dym testified that § 87(2)(b) tried to punch him initially, and that he concluded that § 87(2)(b) intended to injure the officers. Once on the ground, § 87(2)(b) was trying to punch and bite PO Molina, who was stuck beneath him. Lt. Dym continued punching § 87(2)(b) in the face, in order to defend PO Molina and to place § 87(2)(b) in custody. Lt. Dym specified that he aimed his strikes at § 87(2)(b) face specifically in order to stop him from biting PO Molina. Lt. Dym testified that he did not see anything during the struggle which led him to further suspect that § 87(2)(b) was armed, and he did not see § 87(2)(b) apparently attempting to reach for a weapon.

Lt. Dym testified that he thought § 87(2)(b) was under the influence of drugs, possibly PCP, because § 87(2)(b) did not seem to be feeling the pain of Lt. Dym's punches. Lt. Dym felt that he had to deploy more hand strikes than he typically would in a physical struggle. Captain Jerome Bacchi conducted the initial investigation into the incident and informally interviewed § 87(2)(b) while he was in custody. Capt. Bacchi's report indicates that § 87(2)(b) was visibly intoxicated and had a strong odor of alcohol on his breath (BR57).

Lt. Dym estimated that § 87(2)(b) was 5'8" tall and that he was muscular. § 87(2)(b) arrest reports list his height and weight as 5'10" and 200 pounds. However, § 87(2)(b) DOC photographs show that he was only approximately 5'4" tall and that he weighed approximately 155 pounds.

PO Molina did not testify that § 87(2)(b) ever attempted to bite him during this portion of the struggle. He recounted merely that § 87(2)(b) "pushed" on him while on top of him, which restricted his breathing. § 87(2)(g)

However, the BWC footage shows clearly that § 87(2)(b) did not bite them, and that no one said anything about § 87(2)(b) biting officers, until after the portion of the struggle in which Lt. Dym repeatedly punched § 87(2)(b) in the face and head. § 87(2)(g)

Patrol Guide Procedure 221-01 (BR110) states that officers may use force when it is reasonable to place a person in custody or to ensure the safety of officers or civilians. Officers must use only the reasonable force necessary to gain control or custody of a subject. The reasonableness of the use of force is faced upon the totality of the circumstances known by the officer at the time of the use of force. If the force used is unreasonable under the circumstances, it is deemed excessive. In determining whether the use of force is reasonable, officers should consider a number of factors, including the nature and severity of the crime, the actions taken by the subject, the duration of the action, the immediacy of the perceived threat or harm to the subject, officers, or bystanders, whether the subject is actively resisting custody, the number of subjects in comparison to the number of officers, the size, age, and condition of the subject in comparison to the officers, the subject's violent history, the presence of a hostile crowd, and whether the subject is apparently under the influence of a stimulant or narcotic which would affect his pain tolerance or increase the likelihood of violence.

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

- **Allegation (F) Force: In front of § 87(2)(b) in the Bronx, an officer struck § 87(2)(b) § 87(2)(b) with a blunt instrument.**

There was differing testimony from the civilians regarding whether an officer struck § 87(2)(b) with an object during the struggle. § 87(2)(b) did not mention this allegation when she filed the complaint (BR01-02). In her sworn statement, she merely testified that someone struck § 87(2)(b) with a black object once he reached the ground. She could provide no description of the officer and no further description of the object, but she believed the action was captured in the bystander cellphone footage. § 87(2)(b) alleged that either PO Severino-Jimenez or Lt. Dym struck § 87(2)(b) with an unknown black object, though it was unclear if that took place before or after § 87(2)(b) went to the ground. She thought the object might have been a radio or a flashlight, as it was almost entirely contained within the hand of the officer who held it. In § 87(2)(b) initial phone statement, he said that he thought at one point that Lt. Dym had a radio in his hand as he was punching § 87(2)(b) but he did not know if Lt. Dym struck § 87(2)(b) with the radio (BR45). In his later sworn statement, § 87(2)(b) repeated that he saw Lt. Dym holding a radio at some point but never saw Lt. Dym actually strike § 87(2)(b) with it. § 87(2)(b) provided a brief description of the incident by phone, but later missed two scheduled appointments for interviews and expressed his feeling that he had merely intended to file the complaint on behalf of others. He recounted seeing Lt. Dym strike § 87(2)(b) in the face with a radio, but he did not specify when during the incident that took place. § 87(2)(b) did not see any officer strike § 87(2)(b) with an object.

Capt. Bacchi's initial investigative report notes that § 87(2)(b) told him that an unknown officer "pistol whipped" him.

Lt. Dym denied that he ever struck § 87(2)(b) with any object, and none of the other interviewed officers testified to doing so or seeing anyone do so. As noted above, the investigation was unable to interview PO Severino-Jimenez.

None of the video footage shows Lt. Dym, or any officer, ever strike § 87(2)(b) with an object. In the footage showing Lt. Dym repeatedly punching § 87(2)(b) he does not appear to be holding anything in his hand.

§ 87(2)(g)

- **Allegation (G) Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)**
- **Allegation (H) Force: In front of § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)**
- **Allegation (I) Force: In front of § 87(2)(b) in the Bronx, Police Officer John Migliaccio used a Taser against § 87(2)(b)**
- **Allegation (J) Force: Officers used physical force against § 87(2)(b)**

It is undisputed that, during the struggle to handcuff § 87(2)(b) on the ground, Lt. Dym struck § 87(2)(b) with his knee and PO Migliaccio deployed a Taser against § 87(2)(b)

§ 87(2)(b) testified that multiple officers, whom he could not describe, repeatedly kicked and stomped § 87(2)(b) during the struggle to cuff him on the ground. He recounted hearing the buzzing sound of a Taser shortly after § 87(2)(b) went to the ground, and he alleged that officers used a Taser against § 87(2)(b) multiple times. § 87(2)(b) testified that, at some point, an unknown number of uniformed officers whom she did not describe punched § 87(2)(b) while he was on the ground. § 87(2)(b) testified to only seeing Lt. Dym punch § 87(2)(b) on the ground. He denied seeing any officers strike § 87(2)(b) with their feet. He did not see an officer use a Taser. § 87(2)(b) also did not testify to seeing officers kick or stomp § 87(2)(b)—she saw a plainclothes officer punch him in the ribs.

In sum, the BWC footage shows that officers struggled with § 87(2)(b) for approximately five minutes before they could finally handcuff him—they ended up using two sets of cuffs to link his wrists. PO Molina extricated himself from beneath § 87(2)(b) partway through the struggle, and additional uniformed officers became involved. The collective footage does not provide a clear or comprehensive view of the struggle, and the BWCs of the officers involved were often obscured or moving chaotically. The cellphone footage also did not capture any additional force officers used during the later part of the struggle. None of the footage captured any additional officers striking, kicking, or stomping § 87(2)(b)

The audio in the BWC footage does capture PO Severino-Jimenez exclaiming that § 87(2)(b) bit him, as well as the moment that PO Migliaccio deployed his Taser. In PO Severino-Jimenez's BWC (BR11, at approximately 00:26), he suddenly yells, "Oh you bit me! Oh you bit me!" Approximately 30 seconds later, § 87(2)(b) says, "Get off of me, man. What the fuck is wrong with y'all? What the fuck you wanna do?" PO Severino-Jimenez extracts himself from the struggle and begins to walk away before PO Migliaccio audibly fires his Taser. PO Severino-Jimenez later walks over to another officer and recounts that § 87(2)(b) bit him.

Sgt. Velez's BWC (BR22, beginning at approximately 00:35), briefly provides an alternate view of the struggle before also becoming obscured. PO Noonan's BWC (BR30, beginning at approximately 00:15) provides another view, in which § 87(2)(b) is visibly moving his legs as a uniformed officer and Lt. Dym attempt to hold them down. Shortly afterward, PO Migliaccio fires his Taser (approximately 00:26).

Capt. Bacchi's ISAR states that § 87(2)(b) bit PO Severino-Jimenez's right calf, causing substantial pain (BR57). PO Severino-Jimenez's pant leg prevented the bite from breaking the skin. The report then says, "Lt. Dym then employed a knee stun to § 87(2)(b) which resulted in him releasing his bite."

As noted above, none of the civilians recounted seeing Lt. Dym strike § 87(2)(b) with his knee. Lt. Dym also did not initially testify to doing so during his interview. He then reviewed his TRI report (BR114), which indicates that he used a "knee stun." Lt. Dym explained that a "knee stun" is a knee strike made when close to the ground, but he still did not recall using a knee stun during the incident. He then reviewed Capt. Bacchi's ISAR, and it refreshed his recollection that he struck § 87(2)(b) face with his knee during the struggle on the ground, in relation to § 87(2)(b) biting PO Severino-Jimenez.

PO Migliaccio (BR95) testified that he saw § 87(2)(b) face near PO Severino-Jimenez's leg when PO Severino-Jimenez exclaimed that § 87(2)(b) was biting him. PO Migliaccio tried to move § 87(2)(b) face away with his right hand. § 87(2)(b) then bit PO Migliaccio's right index finger, primarily on the fingernail. He immediately pulled his hand away, and later found that he sustained a very small laceration at the base of his fingernail. PO Migliaccio decided to use his Taser because § 87(2)(b) was continuing to violently resist arrest. He aimed it at § 87(2)(b) back from a few feet away, and it appeared to have no effect on § 87(2)(b).

The TRI reports contain a photograph of a small cut on PO Migliaccio's finger (BR53), as well as a photograph of PO Severino-Jimenez's bared right calf (BR55).

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to place a person in custody or to ensure the safety of officers or civilians. Officers must use only the reasonable force necessary to gain control or custody of a subject (BR110). Patrol Guide Procedure 221-08 (BR101) permits the use of a Taser "against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present." Active resisting means "physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody." Active aggression means the "threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent."

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

- **Allegation (A) Force: In front of § 87(2)(b) in the Bronx, officers hit § 87(2)(b) against a vehicle.**

When she filed the complaint, § 87(2)(b) said merely that an officer or officers, whom she did not see, struck § 87(2)(b) against a car. The car was dented as a result. In her sworn statement, § 87(2)(b) testified that PO Severino-Jimenez and Lt. Dym successfully handcuffed § 87(2)(b) before he went to the ground. She claimed that, immediately after cuffing him, PO Severino-Jimenez and Lt. Dym slammed § 87(2)(b) against the trunk of a nearby parked car (despite her previously saying that she did not see which officers did so). The car was silver, and it was parked beside a nearby tree. § 87(2)(b) admitted that she did not see exactly what actions the officers took to cause § 87(2)(b) to make contact with the car, and that she was not sure whether additional officers were involved in doing so. She did not know what part of § 87(2)(b) body made contact with the car.

As noted above, § 87(2)(b) also claimed that PO Severino-Jimenez and Lt. Dym cuffed § 87(2)(b) standing up, and that they began punching him in the face and ribs. At that point, they pulled § 87(2)(b) away from the gate and slammed him against the middle of the passenger side of a parked car, causing a dent. § 87(2)(b) front made contact with the car, and then he went to the ground.

§ 87(2)(b) similarly testified that two plainclothes officers pulled § 87(2)(b) away from the gate and struck him against the car, though his narrative did not clearly indicate which officers were the subjects. § 87(2)(b)'s left shoulder or the left part of his head struck the lower passenger-side quarter panel, causing a dent. At least one of the officers also punched § 87(2)(b). The officers continued tussling with § 87(2)(b) and moved along the length of the car to the front, where § 87(2)(b) body made contact with the front fender before he went to the ground beside the tree.

§ 87(2)(b) did not recount seeing officers strike § 87(2)(b) against a vehicle. He merely saw officers holding § 87(2)(b) arms near the gate, and then saw that § 87(2)(b) had gone to the ground. § 87(2)(b) did not mention officers striking § 87(2)(b) against a vehicle.

As previously described, the BWC and cellphone videos show officers struggling with § 87(2)(b) at the gate, unsuccessfully attempting to cuff him, and then going to the ground with him beside the tree. At no point during that process does § 87(2)(b) go near a silver sedan

parked at the curb. The silver sedan is parked one car length away, and not beside the tree. The footage directly contradicts the testimony of § 87(2)(b) and § 87(2)(b). The cellphone footage *does* show a visible dent on the rear passenger side of the parked car (BR59, at 00:19) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The officers denied that § 87(2)(b) was struck against a parked vehicle at any point.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

- **Allegation (B) Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)**

§ 87(2)(b) recounted that officers slammed § 87(2)(b) under a parked car, which was parked *behind* the silver car against which officers allegedly struck § 87(2)(b). § 87(2)(b) acknowledged that he did not see this very well and was mostly paying attention to § 87(2)(b) at the time. He did not see anything about the officers who used force against § 87(2)(b) except that they were wearing jeans.

In her initial complaint, § 87(2)(b) said merely that officers “beat up” § 87(2)(b). However, she later testified only that she saw § 87(2)(b) underneath a car at some point during the incident. She did not see how he came to be in that position. She also saw a very large bump on the right side of his face. Similarly, § 87(2)(b) at some point saw § 87(2)(b) on the ground at the curb. She claimed that officers beat up § 87(2)(b) and caused him to go to the ground, but she did not actually see those interactions, and § 87(2)(b) never told her how he came to be on the ground. § 87(2)(b) also saw § 87(2)(b) on the ground but had no idea what happened to him. He did not see § 87(2)(b) have any physical contact with officers. § 87(2)(b) said that officers assaulted § 87(2)(b) but offered no further details.

As noted above, § 87(2)(b) declined multiple opportunities to provide a statement due to ongoing civil litigation. The investigation obtained the Notice of Claim submitted by his attorney, which states that officers grabbed him and tackled him to the ground, and that an officer repeatedly struck his head against the ground (BR58). The Notice of Claim states that § 87(2)(b) suffered undescribed injuries to his head and neck. The investigation could not obtain HIPAA forms from § 87(2)(b) and thus could not obtain any further information about injuries he sustained.

The video footage confirms that § 87(2)(b) ended up lying in the gutter beside the silver car with the dented rear panel, and it shows that he immediately suffered an extremely large swelling on his forehead. § 87(2)(b) is first visible on the ground at 00:18 (BR59), at the same time that officers are already on the ground struggling with § 87(2)(b). § 87(2)(b) lies with his legs upon a pile of garbage bags at the curb and his upper body in the gutter beside and beneath the parked silver car. At that point, a uniformed officer stands beside him and helps him to a standing position. An alternate view of this portion of the incident can be seen at the beginning of (BR08), but the quality is very poor, and § 87(2)(b) is already on the ground by the time the footage starts. It should be noted that the dent in the silver sedan is present in all the video footage

obtained by the investigation—there is no footage showing the sedan without a dent, and therefore the investigation had no evidence to indicate that the dent was not already present on the vehicle prior to the incident.

PO Greaige's BWC footage captures views of § 87(2)(b) in the time shortly before he must have gone to the ground (BR17, beginning at 00:00). PO Greaige initially stands with his back to the officers who are interacting with § 87(2)(b) at the gate. He is face-to-face with § 87(2)(b) and § 87(2)(b) who are apparently yelling and attempting to get closer to the ongoing arrest. PO Greaige lightly pushes § 87(2)(b) in the chest with one hand, before turning around to engage in the struggle with § 87(2)(b). He immediately spins back around to deal with § 87(2)(b) and § 87(2)(b). The camera jerks quickly and chaotically, but at 00:13 one can see the silver car and § 87(2)(b) is not yet lying beside it. The BWC then becomes completely obscured for an extended period. When the audio begins at 00:30, multiple voices can be heard and at least one is screaming. The camera remains completely obscured while a male voice says, "Alright, alright, I'm tapping out. I'm tapping out. I'm tapping out." It is unclear who is speaking, and other voices keep yelling in the background. A male voice appears to say, "Put your hands behind your back," but it is unclear whether the speaker is PO Greaige or if an officer is issuing that command to § 87(2)(b). The BWC then shuts off abruptly. § 87(2)(g)

Later BWC footage captures § 87(2)(b) speaking to PO Vladimir Julien, who arrived on scene later in the incident (BR35, at approximately 01:00). § 87(2)(b) calls attention to the welt on his forehead and seems to say that officers "jumped on [him]."

PO Greaige testified generally to pushing civilians away throughout the arrest. He did not recall pushing anyone into a vehicle or seeing anyone go to the ground near a vehicle. He viewed the footage showing § 87(2)(b) on the ground and testified that he did not know how § 87(2)(b) came to be in that position. PO Tejada similarly denied pushing anyone who fell down and struck a vehicle, and he denied seeing PO Greaige do so. None of the other interviewed officers testified to seeing anyone knock § 87(2)(b) to the ground, and none provided testimony which helped to explain how § 87(2)(b) came to that position. Lt. Dym, PO Severino-Jimenez, and PO Molina were struggling with § 87(2)(b) at that time.

§ 87(2)(g)

- **Allegation (K) Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to § 87(2)(b)**
- **Allegation (L) Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)**

In the BWC footage, at various points during the struggle to handcuff § 87(2)(b) male voices can be heard saying, "Let me see your fucking hands," "Stop fucking resisting," and, "Motherfucker." The investigation could not identify which officers made these remarks based

upon the video footage, and all interviewed officers either could not recall if they made the remarks, denied doing so, or denied being able to identify the voices in the video footage.

Officers must render their services with courtesy and civility. Patrol Guide Procedure 200-02 (BR109). The NYPD's disciplinary decisions "have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct." NYPD Disciplinary Case No. 76927/04 (2004) (BR112).

§ 87(2)(g)

- **Allegation (M) Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)**
- **Allegation (N) Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)**
- **Allegation (O) Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)**
- **Allegation (P) Force: In front of § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against individuals.**

It is undisputed that PO Greaige pushed § 87(2)(b) and other unidentified civilians multiple times.

As previously noted, Lt. Dym's first BWC clip (BR12) shows PO Greaige attempting to block the civilians from approaching the physical struggle with § 87(2)(b) § 87(2)(b) and another man soon approach to within inches of the officers, such that PO Severino-Jimenez has to turn toward them while still grappling with § 87(2)(b). The longer version of the cellphone footage (BR04) provides a good view of the civilians' subsequent actions once the struggle moved to the ground, and of PO Greaige repeatedly pushing them away. At approximately 00:05, § 87(2)(b) can be seen in the background evading a uniformed officer and attempting to approach the officers grappling with § 87(2)(b) on the ground. § 87(2)(b) comes from the same direction and briefly stands directly behind PO Severino-Jimenez. § 87(2)(b) reaches down, apparently in the direction of her handbag, and PO Greaige pushes her away from the struggle. As the incident progresses, § 87(2)(b) yells and gesticulates at the officers. At 00:43, § 87(2)(b) and a man filming with a cellphone approach the struggle, walking up directly behind PO Greaige. PO Greaige pushes § 87(2)(b) away. § 87(2)(b) and the man filming quickly walk back toward the struggle again, getting so close that they bend over for a better view. They are immediately behind the backs of the officers struggling on the ground with § 87(2)(b) and § 87(2)(b) continues yelling and gesticulating. PO Greaige pushes them away again, and can be heard saying, "Get back." At 01:18, § 87(2)(b) stands directly beside the struggle, and PO Greaige pushes her away. § 87(2)(b) and others approach yet again, and PO Greaige holds out his arm against them. Finally, PO Greaige shoves the entire crowd until they are at least a car length away from the ongoing arrest. At this point, additional uniformed officers begin arriving and taking positions on the

CCRB Case # 201809228

sidewalk between the crowd of civilians and the arrest. The other cellphone clip provides an alternate angle of this portion of the incident (BR08, 00:15 to 01:18), but it is of very poor quality.

§ 87(2)(b) admitted that she approached the arrest multiple times, argued with PO Greaige, heard him repeatedly direct civilians to “get back,” and attempted to approach him again. She also noted that § 87(2)(b) eventually grabbed her in a bear-hug to prevent her from continuing to approach the officers. § 87(2)(b) recounted that PO Greaige pushed her in the chest after ordering her to get back, and she reacted by throwing her hands up, swatting PO Greaige away, and telling him not to touch her. § 87(2)(b) recounted hearing an officer repeatedly tell § 87(2)(b) to back away from the arrest as she told the officers to get off of § 87(2)(b). He also testified that § 87(2)(b) reacted to PO Greaige’s order to step back by saying, “No, that’s my son. That’s my fucking son.”

PO Greaige confirmed that he repeatedly pushed various civilians away from the arrest. He described this as a constant process because civilians kept moving toward the arrest. With regard to the specific moment in the footage when he pushed § 87(2)(b) away as she bent down for her handbag, PO Greaige testified that she was close the officers and he thought she was attempting to grab something (possibly a dropped radio or BWC), so he pushed her away to make sure she was not within reach of the officers.

Patrol Guide Procedure 221-01 mandates that any use of force be reasonable under the circumstances and not excessive (BR110).

§ 87(2)(g)
[REDACTED]

- **Allegation (Q) Abuse of Authority: In front of § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b)**
- **Allegation (R) Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)**
- **Allegation (S) Abuse of Authority: In front of § 87(2)(b) in the Bronx, officers threatened to arrest individuals.**
- **Allegation (T) Discourtesy: In front of § 87(2)(b) in the Bronx, officers spoke discourteously to individuals.**

§ 87(2)(b) recounted that an officer told § 87(2)(b) “I’ll lock your ass up. Back away. Back away.” § 87(2)(b) did not describe this officer and did not specify whether he was in uniform or plainclothes, but he seemed to indicate that it was not PO Greaige. He did not specifically place the remark within the broader timeline of the incident, but he seemed to indicate that it occurred after numerous uniformed officers began arriving on scene.

In addition, § 87(2)(b) recounted that multiple uniformed officers, whom he could not describe, told multiple unidentified civilians, “Move the fuck back. Everybody move. Move. Move. Move.” He also alleged that the officers said that they would “lock their asses up” if the civilians did not move. In an initial phone statement, § 87(2)(b) recounted hearing multiple officers say, “Back the fuck up,” but he later said he was uncertain if the officers used profanity. In his later sworn interview, he testified that officers definitely used profanity when ordering crowd members

CCRB Case # 201809228

to back up. He initially could not recall the exact language that officers used, and later said it was something to the effect of, “Back the fuck up. Mind your business.” He also recalled hearing an officer say that “everybody was going” if they did not back up. § 87(2)(b) could not ascribe the remarks to any particular, describable officer.

§ 87(2)(b) and § 87(2)(b) did not recount hearing any officer makes threats of arrest or use profanity during this portion of the incident.

In one of the cellphone clips (BR04), at approximately 01:56, once additional uniformed officers began arriving, a male voice can be heard yelling something that ends in “...fuck back!” No officer visible in the footage appears to be making the statement. None of the bystander or BWC footage captures any of the alleged threats of arrest or other alleged uses of profanity.

None of the interviewed officers testified to committing or witnessing any of the allegations described in this section. § 87(2)(g)

A person is guilty of obstructing governmental administration when he or she intentionally obstructs, impairs, or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force, or interference, or by means of any independently unlawful act. New York Penal Law § 195.05 (BR113). Officers must render their services with courtesy and civility. Patrol Guide Procedure 200-02 (BR109). The NYPD’s disciplinary decisions “have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer’s verbal slip does not rise to the level of actionable misconduct.” NYPD Disciplinary Case No. 76927/04 (2004) (BR112).

§ 87(2)(g)

§ 87(2)(g)

- **Allegation (U) Discourtesy: In front of § 87(2)(b) in the Bronx, Police Officer Joseph Deramo spoke discourteously to individuals.**
- **Allegation (V) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Joseph Deramo threatened individuals with the use of force.**

These allegations are based solely upon PO Deramo’s BWC footage (BR28). PO Deramo was one of the numerous uniformed officers who responded to the scene after the struggle with § 87(2)(b) was over. Beginning at approximately 01:25, PO Deramo appears to be commenting

CCRB Case # 201809228

aloud to himself or nearby officers about the ongoing arguments between other officers and civilians on scene. He says, “Yo, chill bro—you’re gonna get fucking tased. Don’t do that shit.” It is unclear about whom PO Deramo is speaking. PO Deramo does not appear to be close to any civilians at the time. Shortly afterward, PO Deramo says more loudly, “Shut the fuck up and go home—like, do something productive with your lives. God damn, you fucking useless people.” PO Deramo again appears to be commenting broadly about the crowd of civilians on scene.

At 02:58, PO Deramo gets into an altercation with two unidentified civilians standing on the sidewalk. He tells them to back up, and one of them replies that they live at the location. PO Deramo says, “I don’t care if any of you live—back up. I don’t give a shit. That’s all right, I don’t care. This ain’t your apartment.” A woman protests that her ID proves she lives there, and PO Deramo replies, “Oh yeah? Ok, I’m sure it does. Let me see it. Let me see it. It matches?” The woman begins retreating away from PO Deramo, and he follows her while yelling, “Yeah, exactly. Let me see it, you fucking liar! Fucking liar!”

On April 26, 2021, the investigation confirmed that PO Deramo was retired and was no longer a member of the NYPD. § 87(2)(g)

- **Allegation (W) Abuse of Authority: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez threatened to damage § 87(2)(b) property.**
- **Allegation (X) Abuse of Authority: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez threatened to arrest § 87(2)(b)**
- **Allegation (Y) Discourtesy: At the PSA 7 stationhouse, Police Officer Fray Severino-Jimenez spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that PO Severino-Jimenez told her, “If you take a picture of me, I’m gonna break your phone.” She did not recount that he used any profanity or threatened to arrest her. § 87(2)(b) recounted that PO Severino-Jimenez told § 87(2)(b) “If you take pictures or record in here, I’m gonna lock you up.” § 87(2)(b) recounted PO Severino-Jimenez saying, “If you don’t shut your fucking phone off in here and take pictures, I’m gonna take it and break it up.” He also recounted PO Severino-Jimenez threatening to arrest § 87(2)(b)

Surveillance footage from the PSA 7 stationhouse (BR89, beginning at 43:00) shows § 87(2)(b) in a black leather jacket arguing with PO Severino-Jimenez with a cell phone in her hand. The footage does not have audio.

PO Severino-Jimenez resigned from the NYPD a few months after this incident, before the CCRB could interview him regarding this case. None of the interviewed officers recalled this portion of the incident or testified that they were present for it.

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)

CCRB Case # 201809228

- 201900061 involved a substantiated allegation of entry of premises against Lt. Dym. The Board recommended Command Level Instructions. The NYPD imposed Formalized Training.
- 201902457 involved substantiated allegations of physical force, restriction of breathing, strip search, and body cavity search against Lt. Dym. The Board recommended Charges. The NYPD has not yet imposed discipline. **In this case, Lt. Dym was captured on video footage repeatedly punching a handcuffed prisoner inside the cell area of the PSA 7 stationhouse, including while he was sitting atop the prisoner on the ground and while other officers were holding the prisoner down.**
- 201903287 involved substantiated allegations of stop, frisk, and improper summons against Lt. Dym. The Board recommended Charges. The NYPD has not yet imposed discipline.
- 201903682 involved substantiated allegations of interference with recording device and improper summons against Lt. Dym. The Board recommended Command Discipline B, and the NYPD imposed Command Discipline B.
- § 87(2)(g) [REDACTED] Of note are 202004301, which shows Lt. Dym on video footage climbing atop a vehicle during a protest incident and striking civilians with his baton, § 87(2)(g) [REDACTED]
- PO Greaige has been a member of the NYPD for five years. This is the first CCRB complaint in which he has been named a subject. He was subsequently named a subject in § 87(2)(g) [REDACTED]
 - 201905840 involved a substantiated allegation of physical force against PO Greaige. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A.
 - § 87(2)(g) [REDACTED]
- PO Severino-Jimenez is no longer a member of the NYPD. He was named a subject in three complaints and ten allegations, one of which was substantiated:
 - 201700134 involved a substantiated stop allegation against PO Severino-Jimenez. The Board recommended Command Discipline A. The NYPD imposed Formalized Training.
- PO Migliaccio has been a member of the NYPD for four years. This is the first CCRB complaint in which he has been named a subject. § 87(2)(g) [REDACTED]
- PO Deramo is no longer a member of the NYPD. This is the first CCRB complaint in which he was named a subject. He was subsequently named a subject in one complaint and three allegation, none of which was substantiated.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On December 17, 2018, § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming harassment and assault resulting in physical injuries and seeking \$2 million as redress (BR58). The New York City Comptroller's office did not locate any other Notices of Claim.
- § 87(2)(b) [REDACTED]

CCRB Case # 201809228

§ 87(2)(b) [Redacted text block]

- § 87(2)(b) [Redacted text block]

- § 87(2)(b) [Redacted text block]

- § 87(2)(b) [Redacted text block]

- § 87(2)(b) [Redacted text block]

Squad No.: 5

Investigator: _____
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante November 5, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB Case # 201809228